

## Message Text

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ORIGIN L-02

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P R 152135Z MAY 74

FM SECSTATE WASHDC

TO AMEMBASSY BANGKOK PRIORITY

INFO AMEMBASSY VIENTIANE

AMEMBASSY PHNOM PENH

AMCONSUL UDORN

DEPCHIEF JUSMAG THAI

COMUSMACHTAI

CINCPAC

SECDEF

S E C R E T STATE 101286

LIMDIS

E.O. 11652: GDS

TAGS: MARR, MCAP, TH, LA, CB

SUBJECT: EQUIPMENT AT UDORN AIR AMERICA FACILITY

REFS: A. STATE 091607 DTG 032143Z MAY 74

B. COMUSMACHTAI DTG 021055Z MAY 74

C. BANGKOK 7461 DTG 081200Z MAY 74

1. FOLLOWING PROVIDES GUIDANCE (DEVELOPED IN CONSULTATION  
WITH DOD) PROMISED IN REF A FOR USE IN DISCUSSIONS WITH  
RTG. WE ASSUME THAT QUESTION OF USG PROPERTY AND EQUIP-

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MENT AT UDORN CONTINUES TO BE SEPARATED FROM CONTRACT

ISSUE AS INDICATED IN REF B.

2. THE QUESTION OF TRANSFER OF PROPERTY OWNED BY USG OR CONSTRUCTED AT USG EXPENSE AT UDORN AIR AMERICA FACILITY APPEARS SUBJECT OF SOME MISUNDERSTANDING AND CONFUSION, PARTICULARLY REGARDING THE MEANING OF EXPRESSION "GOVERNMENT FURNISHED EQUIPMENT (GFE)" AS COMMONLY USED IN AIRCRAFT OVERHAUL AND RELATED ACTIVITIES. IT SHOULD BE RECOGNIZED THAT THERE ARE THREE DISTINCT KINDS OF PROPERTY FROM BOTH A PRACTICAL AND LEGAL POINT OF VIEW AT THE AIR AMERICA FACILITY. THE FIRST CATEGORY IS THE REAL ESTATE, THAT IS, PERMANENT BUILDINGS AND THE NECESSARY INSTALLED ITEMS IN THEM SUCH AS PLUMBING, WIRING, FIXTURES, ETC. THOSE BUILDINGS (WHEN CONSTRUCTED) AND THE INSTALLED ITEMS, (WHEN INSTALLED), BEING REAL ESTATE,

BECAME PROPERTY OF THE RTG IMMEDIATELY AND USG, OR ITS AGENTS, HAD ONLY A RIGHT TO USE THEM UNDER THE INFORMAL RTG CONSENT WHICH PERMITTED US TO BUILD AND INSTALL THEM. THIS RTG CONSENT WAS NOT EXPRESSLY LIMITED TO AIR AMERICA AND PRESUMABLY WOULD CONTINUE AND PERMIT US TO TRANSFER THE RIGHT TO USE OF BUILDINGS AND INSTALLED ITEMS TO SOME OTHER CONTRACTOR PERFORMING THE FUNCTIONS FOR WHICH, IN RELIANCE UPON RTG CONSENT, THE USG INVESTED THE REQUIRED MONEY TO BUILD AND EQUIP THEM WITH INSTALLED ITEMS. DESPITE THIS, HOWEVER, THEY ARE CLEARLY NOT US PROPERTY WHICH WE CAN REMOVE OR OTHERWISE DISPOSE OF AT WILL.

3. THE SECOND TYPE OF PROPERTY IS EQUIPMENT IN THE FACILITY OF A GENERAL NATURE, BUT NOT CONSTITUTING PART OF THE REAL ESTATE. IN SOME CASES IT IS EXTREMELY DIFFICULT TO DRAW THE LINE ON WHETHER ITEMS ARE REAL OR PERSONAL (I.E. RELOCATABLE) PROPERTY. UNLIKE SEWAGE DISPOSAL, WHICH IS CLEARLY REAL PROPERTY, BOTH WATER AND ELECTRIC GENERATING CAPABILITY MAY BE EXCESSIVE TO THE GENERAL NEED IN ORDER TO PROVIDE ASSURED SUPPLY, OR AS OTHER SOURCES ARE READILY AVAILABLE, MAY NOT BE TRULY NECESSARY AT ALL AND MAY BE PHYSICALLY REMOVABLE WITHOUT SUBSTANTIAL DAMAGE TO THE BUILDING. FURNITURE, GENERAL PURPOSE TOOLS AND MANY MANY OTHER ITEMS ARE CLEARLY NOT PART OF THE REAL ESTATE,

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BUT ARE ASSETS BOUGHT AND PAID FOR BY USG, ARE PROPERLY REMOVABLE AT WILL BY USG, AND CAN BE DISPOSED OF BY USG ONLY AS AUTHORIZED BY US LAW.

4. THE THIRD TYPE OF PROPERTY IS THAT NORMALLY CALLED GOVERNMENT-FURNISHED EQUIPMENT (GFE) OR GOVERNMENT-FURNISHED PROPERTY (GFP), WHICH IS SPECIAL TOOLS, MACHINES, TEST ITEMS, ETC. FREQUENTLY FURNISHED BY THE

GOVERNMENT TO A COMMERCIAL CONTRACTOR FOR HIS USE IN PERFORMANCE OF A CONTRACT. THEY ARE STRICTLY LOANED TO FACILITATE PERFORMANCE AND/OR REDUCE COSTS TO USG AND WILL BE RETURNED TO THE GOVERNMENT ON COMPLETION OF THE CONTRACT.

5. RECOGNIZING ABOVE DISTINCTIONS, USG, ACTING THROUGH AN APPROPRIATE GOVERNMENT AGENCY, SHOULD BE ABLE TO PERMIT AN ACTIVITY ACCEPTABLE TO THE RTG (PRESUMABLY THAI-AM) TO OCCUPY THE REAL ESTATE BUILT AND INSTALLED AT USG EXPENSE AND TO USE THE GENERAL PURPOSE EQUIPMENT, DESKS, CHAIRS, ETC. BELONGING TO USG AND PRESENT IN THE FACILITY FOR THE PURPOSE OF CONTINUING THE ACTIVITY HERETOFORE CARRIED OUT FOR THE USG BY AIR AMERICA. TO THE EXTENT THAT THE SUCCESSOR OPERATOR REQUIRES THE SPECIAL TOOLS AND EQUIPMENT ON LOAN TO AIR AMERICA BY

USAF FOR THE CONTINUANCE OF THE WORK HERETOFORE DONE BY AIR AMERICA ON CONTRACT WITH USAF, THE USAF WILL FURNISH THAT REQUIRED EQUIPMENT COMMONLY KNOWN AS GFE AND NOW ON HAND IN THE PLANT, TOGETHER WITH ANY OTHER EQUIPMENT NEEDED FOR THE PERFORMANCE OF THE CONTRACT. WHEN THE USG CEASES TO NEED THE FACILITY, THE REAL ESTATE ALREADY OWNED BY THE RTG REVERTS TO THEM. THE SECOND CATEGORY OF ITEMS WOULD THEN BE REVIEWED TO DETERMINE THE USG'S NEED FOR THEM ELSEWHERE AND THEIR ECONOMIC VALUE. IN CASES WHERE PROPERTY IS FOUND TO BE EXCESS, AND EITHER DETERMINED TO HAVE NO COMMERCIAL VALUE OR WHERE COSTS OF PRESERVING IT FOR OTHER USG USE EXCEED ITS VALUE, IT COULD BE ABANDONED OR DONATED TO THE RTG (SEE 6 FAM 233.1A, 233.2B, 233.5-5, 233.11B). ON THE TERMINATION OF THE CONTRACT THE LOAN OF THE GFE WOULD CEASE AND IT WOULD BE REMOVED TO A POINT OF NEED EXCEPT FOR ANY ITEMS  
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EXCESS TO THE NEEDS OF USG. EXCESS ITEMS COULD BE AVAILABLE TO RTG TO THE SAME EXTENT AS ANY OTHER EXCESS ITEMS GENERATED THROUGH BASE CLOSURES.

6. IF THE ABOVE IS UNDERSTOOD, WE BELIEVE CONSIDERABLE CONFUSION CAN BE ELIMINATED, PARTICULARLY IF IT IS RECOGNIZED THAT IT IS IMPOSSIBLE FOR US TO ARBITRARILY DECLARE ITEMS EXCESS WHEN, AT LEAST IN THE CASE OF THE GFE, THERE IS LIKELY TO BE A NEED ELSEWHERE AND THE ITEMS ARE EXPENSIVE ENOUGH TO WARRANT THE COST OF THEIR REMOVAL TO MEET THAT NEED. WE DOUBT THAT ANY APPRECIABLE AMOUNT OF THE GFE WOULD BE AVAILABLE AS EXCESS AND, THEREFORE, WOULD NOT BE TRANSFERABLE.

7. EXCESS USG OWNED GENERAL PURPOSE PROPERTY AND GFE

HAVING VALUE PRECLUDING ITS DONATION TO RTG OR ABANDONMENT COULD BE SOLD TO RTG OR MADE SUBJECT OF GRANTS UNDER APPROPRIATE FOREIGN ASSISTANCE PROGRAM.

8. YOU MAY ASSURE RTG THAT GFE NOW HELD BY AIR AMERICA CAN CONTINUE TO BE MADE AVAILABLE AS GFE TO THAI-AM OR OTHER THAI ENTITY WHICH ASSUMES UDORN MAINTENANCE OPERATION FOR AS LONG AS CONTRACTUAL REQUIREMENT FOR GFE EXISTS. YOU MAY WISH TO POINT OUT THAT THAI-AM HAS EXPERIENCED NO DIFFICULTIES WITH GFE USED IN CONNECTION WITH CURRENT CONTRACTS AT DON MUANG.

9. IN ANY DISCUSSIONS WITH RTG CONCERNING POSSIBLE TRANSFER OF EQUIPMENT AT AIR AMERICA UDORN FACILITY OR FOR THAT MATTER AT ANY OTHER U.S. TENANTED BASE AFFECTED BY FORCE REDUCTIONS AND BASE CLOSE-OUTS, EMBASSY SHOULD CAREFULLY OBSERVE DISTINCTION BETWEEN EXCESS AND NON-EXCESS PROPERTY. EMBASSY SHOULD AVOID SUGGESTING TO RTG

WILLINGNESS ON OUR PART TO TRANSFER ASSETS WHICH MAY HAVE "COMMERCIAL OR BASE MAINTENANCE UTILITY" TO THE RTG. REFERRING TO ITEMS OF BASE MAINTENANCE UTILITY COULD BE INTERPRETED AS EQUIPMENT OF VERY SUBSTANTIAL VALUE WHICH WOULD BE BEYOND WHAT HAS BEEN CONTEMPLATED IN TERMS OF EQUIPMENT TRANSFERS, AND IS UNLIKELY TO SURVIVE SCREENING PROCESS.

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10, GFE QUESTION ASIDE, YOU MAY POINT OUT TO RTG THAT FIXED PROPERTY AND UTILITY DISTRIBUTION SYSTEMS AT UDORN FACILITY WOULD REVERT TO RTG AT SUCH TIME AS USG HAS NO FURTHER REQUIREMENT FOR THESE FACILITIES. RUSH

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## Message Attributes

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